



## STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	<b>01/27/99</b>	Bill No:	<b>SB 245</b>
Tax:	<b>Sales and Use</b>	Author:	<b>McPherson</b>
Board Position:		Related Bills:	

### **BILL SUMMARY:**

This bill would provide a sales and use tax exemption for tangible personal property purchased by a qualified fire district if, in the aggregate, the gross receipts or sales price equals \$25,000 or more.

### **ANALYSIS:**

#### Current Law:

Under existing law, the sales tax or the use tax applies to the sale or use of tangible personal property in this state, unless specifically exempted. Generally, state and local government agencies and special districts are required to pay sales tax or use tax on their purchases or sales of tangible personal property to the same extent as any other person in this state. Sales to and purchases by the United States, its agencies and instrumentalities, on the other hand, are exempt from sales and use tax, as the United States is constitutionally immune from state taxation.

#### Proposed Law:

This bill would add Section 6366.6 to the Sales and Use Tax Law to provide a sales and use tax exemption for purchases of tangible personal property by a qualified fire district if the purchase price equals, in the aggregate, \$25,000 or more.

The bill would define “qualified fire district” as a fire protection district created or reorganized pursuant to Part 2.7 (commencing with Section 13800) of Division 12 of the Health and Safety Code or a fire company organized pursuant to Chapter 1 (commencing with Section 14825) of Part 4 of Division 12 of the Health and Safety Code.

The bill would exclude from the proposed exemption any fire protection district or fire company that has annual tax and assessment revenues of \$750,000 or more during the fiscal year immediately preceding the fiscal year in which the purchase is made.

The bill would become operative on the first day of the first calendar quarter commencing more than 90 days after the bill is enacted.

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Background:

Similar bills were introduced in the 1996 and 1997 Legislative Sessions. In 1996, AB 2100 (McPherson) failed passage in the Senate Revenue and Taxation Committee, and in 1997, SB 81 (McPherson & Keeley) was held in the Senate Appropriations Committee.

Numerous other bills proposing to exempt purchases by various state, local and other public entities have been introduced in the past and have all failed passage. The most recent of these measures include:

AB 2758 (1993-94, Statham) would have exempted authorized emergency vehicles (i.e., ambulances, fire trucks, etc.) from sales and use tax. This measure failed passage in the Assembly Revenue and Taxation Committee.

SB 1424 (1993-94, Kopp) would have exempted from the sales and use tax property purchased by the state, city, county, school districts, if the purchase or lease exceeded \$1,000. This measure failed passage in the Senate Appropriations Committee.

SB 1274 (1993-94, Kopp) would have exempted purchases of rail passenger transportation vehicles by the California Department of Transportation from sales and use tax. This measure also failed passage in the Senate Appropriations Committee.

**COMMENTS:**

1. **Purpose of the bill.** This bill is sponsored by the Ben Lomond Fire Protection District located in Santa Cruz County. Its purpose is to reduce the costs of purchasing the more expensive fire and other emergency equipment for the smaller fire districts.
2. **Fire districts would save tax dollars; state and local governments would lose.** The current sales and use tax rate structure is made up of various components:
  - 5 percent state tax that is allocated to the state's General Fund;
  - 1/2 percent state tax that is allocated to the Local Revenue Fund that is dedicated to local governments for program realignment;
  - 1/2 percent state tax that is allocated to the Local Public Safety Fund, that is dedicated to local governments to fund public safety services;

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1 1/4 percent Bradley-Burns Uniform Local Sales and Use Tax that is allocated to the city and county in which the sale took place; and

1/8 to 1 1/4 percent transactions and use tax that is allocated to special taxing jurisdictions in various counties and cities within the state.

The exemption proposed in this bill would have a redistributive effect on local agencies, since the local agency that saves tax on purchases would not be the same as those that lose tax revenues. For example, on a \$100,000 purchase, the fire district would save \$8,000 (using an 8% tax rate). However, the state's General Fund would lose \$5,000, the city in which the sale was made would lose \$1,000, the Local Public Safety Fund and Local Revenue Fund would each lose \$500, the county's transportation fund in which the sale was made would lose \$250 and, assuming the sale was made in a special taxing jurisdiction, that local agency would lose approximately \$750.

3. **Proposed exemption would not apply if fire districts combine orders with other fire districts to meet the \$25,000 limit.** When similar bills were introduced in the past, some fire districts had mentioned that, as a way to benefit from the proposed exemption, they would consider combining their equipment orders with other districts in order to meet the \$25,000 limit. It should be noted that any fire district that combines its equipment orders with another district would likely not be recognized as a qualified fire district for purposes of the administration of this exemption. The \$25,000 limitation proposed in this bill is clearly intended to target purchases of the more expensive equipment and supplies by *an individual* fire district, not a combination of fire districts. Combining orders with other fire districts to meet the conditions of the exemption would be defeating the purpose of having a \$25,000 threshold in the bill.

#### **COST ESTIMATE:**

Some costs would be incurred in informing affected retailers and Board staff and verifying claimed exemptions. These costs would be absorbable.

#### **REVENUE ESTIMATE:**

According to the State Controller's *Report of Financial Transactions Concerning Special Districts of California*, the 1995-96 amount of expenditures by qualified fire districts amounted to \$6.4 million for equipment purchases over \$25,000, and \$29.1 million for services and supplies. Based on information from a number of small fire districts in California, it is estimated that 70% of the services and supplies figure, or \$20.4 million, is for supplies. These expenditures have been growing at a rate of about 5% per year. If we assume a 5% percent per year increase, then estimated 1999-00 expenditures would amount to \$7.4 million for equipment and \$23.6 million for supplies. All of the equipment expenditures would be exempted by this measure since we included only *This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.*

those purchases over \$25,000. However, we do not know what percentage of the expenditures for supplies would be exempted. If we assume that 20% of the expenditures would be structured to meet this limit, then the amount of supply purchases that would be exempted by this measure would amount to \$4.7 million.

The total annual amount of purchases by qualified fire districts that would be exempted pursuant to the provisions of this bill would be \$12.1 million (\$7.4 million for equipment + \$4.7 million for supplies).

The annual revenue loss from exempting the \$12.1 million in purchases by qualified fire districts from the sales and use tax would be as follows:

State loss (5%)	\$605,000
Local loss (2.25%)	272,300
Transit loss (0.67%)	<u>81,100</u>
Total	<u>\$958,400</u>

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